

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**JONATHAN BARAHONA and HECTOR
HERNANDEZ,**

Plaintiffs,

v.

**PARADISE TREE SERVICE & LANDSCAPE
CORP. and WILLIAM NIETO,**

Defendants.

Case No. 21-cv-05400 (GRB)(LGD)

**NOTICE OF MOTION
FOR NEW TRIAL AND
OTHER RELIEF**

1. PLEASE TAKE NOTICE, that upon the annexed affirmation of Glenn J. Ingoglia, Esq., and all supporting papers annexed and previously filed herein, the Defendants' Attorney, Glenn J. Ingoglia, Esq., on behalf of the Defendants, PARADISE TREE SERVICE & LANDSCAPE CORP. and WILLIAM NIETO, does hereby move this Court before the HONORABLE GARY R. BROWN, U.S. DISTRICT COURT JUDGE, at the United States District Court, Eastern District of New York, Long Island Federal Courthouse, 100 Federal Plaza, Central Islip, New York pursuant, seeking relief as follows:

(1) Federal Rule of Civil Procedure (FRCP) Rule 59, and more specifically, FRCP RULE 59(a)(1)(B), the Defendants respectfully request the Court grant a partial new trial of the Plaintiffs' Second Cause of Action in which the trial court found the Defendants liable to the Plaintiffs for unpaid overtime under the New York State Labor Law (NYLL) and awarded the Plaintiffs damages as against the Defendants. The Defendants seek a new trial of this cause of action in its entirety, as well as the setting aside of the judgment, order or verdict regarding this cause of action and damage award;

2. The Defendants respectfully request that if they should be granted a new partial trial, then pursuant to U.S. CONST. AMEND. VII, FRCP RULE 38, FRCP RULE 39, and FRCP RULE 59, the trial is by jury, or if not, then Defendants are granted a new partial bench trial;

3. The Defendants seek additional relief pursuant to FRCP RULE 59. More specifically, pursuant to FRCP RULE 59(a)(2), the Defendants respectfully request the Court to open the judgment after trial, take additional testimony, amend the findings of fact and conclusions of law or make new ones and direct the entry of a new judgment;

4. In addition, and pursuant to FRCP RULE 59(e), the Defendants respectfully request the Court to alter or amend the judgment resulting from the verdict;

5. Pursuant to FRCP RULE 52 and specifically FRCP RULE 52(a) and (b), the Defendants respectfully request the Court to Set Aside, Add and/or Amend the Court's findings and Vacate or Amend the Judgment which resulted or will result from the decision issued by the Court after the recent trial of this matter;

6. Pursuant to FRCP RULE 60, the Defendants respectfully request the Court to relieve both Defendants from the Judgment/Order. Specifically, the Defendants should both be relieved from the Judgment/Order pursuant to FRCP RULE 60(b)(3), due to a Fraud being perpetrated on the Court; pursuant to FRCP RULE 60(b)(4), due to the Judgment/Order being Void; and pursuant to FRCP RULE 60(b)(6), due to the Judgment/Order lacking any reason;

7. Pursuant to FRCP RULE 62, the Defendants respectfully request the Court to stay the enforcement of any judgment against the defendants, including but not limited to judgments resulting from the recent trial or the corporate defendant's default; and

8. The Defendants respectfully request the Court grant such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that any objections or papers responsive to the motion or the relief requested shall be made in writing, and shall state with particularity the reasons and legal and factual basis for such objection, and such objection shall be filed with the Court and served upon the undersigned within the time periods set forth in the Federal Rules of Civil Procedure, and the Local Rules for the Southern and Eastern District of New York.

Dated: June 10, 2025
Island Park, NY

Yours, etc.

Glenn J. Ingoglia

By: Glenn J. Ingoglia, Esq. (GI 1655)
THE LAW OFFICE OF
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TO:

Via ECF
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JONATHAN BARAHONA and HECTOR HERNANDEZ

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Civil Action No.: 2:21-cv-05400 (GRB)(LGD)
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Plaintiffs,

-against-

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and WILLIAM NIETO,

Defendants.

MOTION FOR A NEW TRIAL AND OTHER RELIEF

Signature (F.R.C.P. Rule 11)

Glenn J. Ingoglia

Print name beneath

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TO: Via ECF (Under Seal)
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